

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Home Owners Long Distance Incorporated for violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection.

DOCKET NO. 971489-TI  
ORDER NO. PSC-98-1319-AS-TI  
ISSUED: October 9, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.

ORDER GRANTING MOTION FOR EXTENSION OF TIME  
AND APPROVING OFFER OF SETTLEMENT

BY THE COMMISSION:

Home Owners Long Distance Incorporated (HOLD), Certificate Number 3189, is a provider of interexchange telecommunications service and was certificated on August 17, 1993. HOLD reported gross operating revenues of \$1,123,668.45 on its Regulatory Assessment Fee Return for the period January 1, 1997, through December 31, 1997. As a provider of interexchange telecommunications service in Florida, HOLD is subject to the rules and regulations of this Commission.

For the period January 1, 1996, through March 11, 1998, this Commission received 101 complaints against HOLD that were determined to be apparent unauthorized carrier change (slamming) infractions in violation of Rule 25-4.118, Florida Administrative Code. Based on the number of complaints received by this Commission and the number of apparent slamming violations, the Commission issued Order No. PSC-98-0676-SC-TI, on May 18, 1998, requiring HOLD to show cause by June 7, 1998, why it should not have Certificate Number 3189 canceled or be fined \$1,010,000 for 101 apparent violations of Rule 25-4.118, Florida Administrative

DOCUMENT NUMBER-DATE

11143 OCT-98

FPSC-RECORDS/REPORTING

Code. On June 8, 1998, HOLD filed a Motion for Extension of Time for Consideration and Partial Response asking that it be allowed an extension of thirty days to respond to the Show Cause Order.

MOTION

On June 8, 1998, HOLD timely responded (June 7 was a Sunday) to our order by filing a Motion for Extension of Time for Consideration and Partial Response. Ongoing settlement discussions were the asserted grounds for HOLD's request for an extension of time. Because settlement negotiations were ongoing and have been successful, we find it appropriate to grant the Motion for Extension of Time.

SETTLEMENT

On July 7, 1998, HOLD submitted an offer to settle which is attached and incorporated herein as Attachment A. In its settlement offer HOLD agrees to the following:

- (1) HOLD will not market its services in Florida through the use of a sweepstakes program or in any other manner, and will not submit any PIC change requests of Florida consumers to any local exchange carrier, for a period of at least three years from the date that this settlement offer has been agreed to by the PSC.
- (2) HOLD will not resume its marketing efforts thereafter in the state of Florida until such marketing methods which HOLD proposes to utilize have been approved by our staff.
- (3) HOLD will continue to respond to consumer complaints in a timely manner, will refund any fees incurred by consumers for changing back to their preferred carrier, and will credit the difference between the rates charged by HOLD and the customers' preferred carrier, where such rates are lower than those charged by HOLD.
- (4) HOLD will make a contribution of \$90,000 to the General Revenue Fund of the State of Florida with no admission of liability or wrongdoing, payable in

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the amount of \$30,000 cash and \$60,000 in twelve equal monthly installments.

We believe HOLD's proposal to stop marketing its services in Florida for a period of at least three years will allow HOLD an opportunity to evaluate its current marketing techniques and make necessary revisions to reduce consumer complaints. We also believe that HOLD's proposal not to submit any PIC change requests of Florida consumers to the LECs for a period of at least three years and not to process any HOLD LOAs from Florida, is in the public interest. We believe that obtaining prior approval of future marketing methods will result in fewer consumer complaints when HOLD resumes marketing in Florida. We also believe that HOLD should continue to respond to complaints in a timely manner, refund any PIC change fees consumers have incurred, and rerate consumers' bills to those of their preferred carrier as necessary because, as a certificated telecommunications company, HOLD is required to continue to adhere to the rules of the Florida Public Service Commission.

We believe the terms of the settlement agreement to be fair and reasonable.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the offer of settlement dated July 7, 1998, by Home Owners Long Distance Incorporated, is hereby approved. It is further

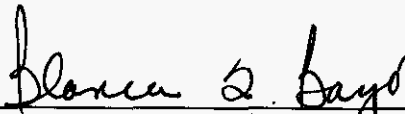
ORDERED that Home Owners Long Distance Incorporated, shall remit \$30,000 within five days of this Order becoming final. Thereafter, \$60,000 shall be remitted in monthly installments. Upon remittance of the total \$90,000 voluntary contribution, this docket may be closed administratively.

ORDERED that this docket shall remain open pending the remittance, the voluntary contribution shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that the Motion for Extension of Time for Consideration and Partial Response filed by Home Owners Long Distance Incorporated, is granted.

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By ORDER of the Florida Public Service Commission this 9th  
day of October, 1998.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

CB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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**ATTACHMENT A**

LAW OFFICES OF  
**GRESHAM, DAVIS, GREGORY, WORTHY & MOORE**  
A PROFESSIONAL CORPORATION

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OF COUNSEL  
BEN J. CHILCUTT  
RAUL M. CALDERON  
SAMUEL H. BAYLESS

July 7, 1998

**VIA FACSIMILE 1 (850) 413-6250 and 1 (850) 413-6582**  
**AND FEDERAL EXPRESS OVERNIGHT DELIVERY**

Ms. Kelly Biegalski  
Florida Public Service Commission  
2450 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Ms. Cathy Bedell  
Office of General Counsel  
Florida Public Service Commission  
2450 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**RE: Home Owners Long Distance, Inc. -- Docket No. 971489**

Dear Ms. Biegalski and Ms. Cathy Bedell:

Pursuant to the decision of the Public Service Commission ("PSC") of the State of Florida, wherein the above docket was heard at its meeting on April 7, 1998, Home Owners Long Distance, Inc. ("HOLD"), by its undersigned, respectfully submits its revised settlement offer in the above-referenced matter. In the context of the meeting of the PSC, the Commission having stated its position has shown us that we are much closer in reaching a settlement than previously believed. In compliance with the Commission's instructions that we continue our negotiations, HOLD revises its previous settlement offer and respectfully proposes the following:

1. HOLD will not market its services in Florida through the use of a sweepstakes program or in any other manner, and will not submit to any local exchange carrier (LEC) orders to change the long distance service of Florida consumers to that provided by HOLD, for a period of at least three (3) years from the date that this settlement offer has been agreed to by the PSC. HOLD will resume its marketing efforts thereafter in the state of Florida, only upon the approval by the Staff of the PSC of such marketing methods which HOLD proposes to utilize.
2. HOLD will continue to respond to consumer complaints in a timely manner, will refund any fees incurred by consumers for changing back to their preferred carrier, and will credit the difference between the rates charged by HOLD and the consumers' preferred carrier, where such rates are lower than those charged by HOLD.

**RECEIVED**

JUL 9 1998

**CMU**

MEMBER OF COMMERCIAL LAW AFFILIATES • AN ASSOCIATION OF INDEPENDENT LAW FIRMS WORLDWIDE

**Ms. Kelly Biegalski and Ms. Cathy Bedell**  
**Florida Public Service Commission**  
**July 7, 1998**  
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3. HOLD will make a contribution of \$90,000.00 to the general revenue fund of the State of Florida with no admission of liability or wrongdoing, payable in the amount of thirty thousand dollars (\$30,000.00) cash and sixty thousand dollars (\$60,000.00) in twelve (12) equal monthly installments of five thousand dollars (\$5,000.00) each until paid.

As we discussed, you are currently negotiating with HOLD Billing Services ("HBS"), a separate entity, regarding the completion of its filings and other regulatory compliance in the State of Florida. I trust that those issues can be worked out, such that the foregoing proposals made by HOLD being acceptable to the PSC, a settlement can be concluded with HOLD while the HBS matters are finalized.

We believe that the foregoing settlement terms and conditions are consistent with the following considerations. It is the Commission's and HOLD's goal to minimize instances of slamming in the State of Florida. HOLD recognizes that its previous marketing methods have resulted in consumer confusion and allegations of slamming. The number of these complaints in Florida far outnumber complaints received in any other jurisdiction. Accordingly, in order to ensure that there is no change of further problems, HOLD will continue to desist from all marketing efforts in Florida in accordance with the terms of Paragraph 1 above. HOLD recognizes that its marketing activities created problems for Florida consumers and placed demands on the time and resources of the Commission and its Staff. HOLD believes that the interests of the public, the Commission and HOLD itself can best be served at this time through settlement. The amount of the voluntary contribution is significant, reflecting how seriously the Commission considers unauthorized carrier changes. At the same time, the amount of the payment reflects the fact that HOLD has voluntarily removed itself from the Florida marketplace.

If you have any questions, or wish to discuss this matter further, please do not hesitate to contact the undersigned.

Respectfully submitted,

  
Peter E. Hoey  
Counsel for Home Owners Long Distance, Inc.

cc: Home Owners Long Distance  
Attn: Joseph Webb and Dana Wilson  
Swidler & Berlin  
Attn: Marcy Greene